



Approved By  
Board of Selectmen

*Tracy Donovan-Laviolette*  
*Roxanne Tufts-Keegan*

## Board of Selectmen Regular Meeting

Minutes

Monday, June 5, 2023 at 6:00 pm

**Non-Public Session @ Municipal Office Bldg @ 6:00 PM**

### 1. Non-Public Session RSA 91-A:3, II(c)

**Minutes:**

Meeting was called to order at 6:00 PM R. Tufts-Keegan made a motion to enter non-public session at 6:00 PM, T. Donovan-Laviolette seconded. Roll call vote to enter non-public session: S. Ferguson-Yes; T. Donovan-Laviolette-Yes; T. Cremmen-Yes; M. Green-Yes; R. Tufts-Keegan-Yes. T. Donovan-Laviolette made a motion to leave non-public session at 6:29 PM, R. Tufts-Keegan seconded, motion carried.

**Resume Regular Meeting @ Old Town Hall @ 6:30 PM**

### 2. Call to Order

**Minutes:**

R. Tufts-Keegan called the meeting to order at 6:41 PM

### 3. Pledge of Allegiance

### 4. Roll Call

**Minutes:**

BOS Members: Roxanne Tufts-Keegan-Present; Scott Ferguson-Present; Tracy Donovan-Laviolette-Present; Mike Green-Present; Tim Cremmen-Present

### 5. Seal Non-Public Minutes

**Minutes:**

R. Tufts-Keegan made a motion to seal the non-public minutes, S. Ferguson seconded. Roll call vote was unanimous.

### 6. Approval of Minutes

May 31, 2023 BOS Meeting Minutes

**Minutes:**

T. Cremmen asked to have the minutes amended to show that the two absent members were excused absences since they notified the Board in advance they were unable to attend. T. Donovan-Laviolette made a motion to accept the minutes as amended, M. Green seconded, motion carried.

## Signature Action

### 7. Timber Tax Warrants: Map 7 Lot 3-35; Map 12 Lot 15; Map 8 Lot 8

**Minutes:**

Timber Tax Warrants signed.

## Old Business

### 8. Camera Investigation

**Minutes:**

R. Tufts-Keegan announced that the BOS received a letter from the County Attorney will not be filing any criminal charges in regard to the camera investigation. (attached)

### 9. ARPA Recommendations

**Minutes:**

R. Tufts Keegan reviewed the list of ARPA Recommendations: 1. MRI to evaluate the Town and identify deficiencies (\$26,000). S. Ferguson explained in more detail what this evaluation would include. He felt we already have a good idea of the deficiencies and this money would be better spent rectifying the issues. 2. Municipal Office Building HVAC: R. Tufts-Keegan explained that we did receive a quote from First Class Heating in August of 2022 for \$29,500. In preparation for this meeting we requested a revised quote which came in at \$39,500. Due to the price, we are in the process of getting additional quotes from other HVAC companies. 3. Air Compressor: Was paid for from a Town Meeting Warrant Article. 4. Forestry Gear: \$5,600 5. Police Body Cameras: Chief not looking to act at this time. 6. Highway Department: Culverts to replace existing old galvanized steel culverts. Approximately 8-10 culverts need replacing, approximately \$25,000, will provide a quote for next meeting. 7. Television Communication Center: \$2,000 for audio/visual equipment for Old Town Hall to be used for presentations at meetings. 8. Firewall: Town's Firewall needs to be replaces, current Firewall security package expires June 8th. \$1,475 T. Cremmen made a motion to purchase the firewall out of ARPA funds, S. Ferguson seconded, motion carried. The rest of the list will be voted on at a later date.

### 10. Vacant Positions (Police & EMT)

**Minutes:**

No response from Police advertisements. Board had tabled the topic of a retention bonus at the last meeting wanting to have the full Board's input before making a decision. M. Green questioned what other Town's are doing? S. Ferguson responded that offering a retention bonus seems to be diminishing in the law enforcement community. Consensus of the Board members was not to offer a retention bonus for neither police nor EMT positions.

### 11. Emergency Management Director Position

**Minutes:**

R. Tufts-Keegan said that with Chief Laviolette's resignation last meeting, Chief Cooper is not able to fulfill that position due to his light duty restrictions. BOS member Scott Ferguson will fill that

position in the interim until the Plan is updated and the Board can turn it over to another individual.

**12. Personnel Policy Update Acknowledgement Forms**

**Minutes:**

Tabled until next week.

**13. Sale of Verizon Phones - Tim**

**Minutes:**

T. Cremmen asked that this item be tabled until next week. He would like to utilize a few of the used phones for live streaming meetings and would like to test it next meeting.

**14. BOS Workshop - Tim**

**Minutes:**

T. Cremmen would like to have a workshop to define Board's goals and all get on the same page. Estimated length of time would be 2 hours. Date was selected for Wed, July 12th at 4:30 PM.

**15. Meeting Frequency - Tim**

**Minutes:**

T. Cremmen would like to meet twice a month instead of three times. R. Tufts-Keegan would like to stay with three due to current workload. M. Green said three seems to be working. Suggested revisiting in a couple months. T. Donovan-Lavolette said she is good either way. S. Ferguson believes we could cover everything in two, however signature wise three might be necessary. R. Tufts-Keegan said we would re-visit in a couple months with the option of a quick meeting on off weeks for a quick meeting for signatures only.

**16. Prayer at Meetings - Tim**

**Minutes:**

T. Cremmen said he has heard from a couple residents that are not comfortable with prayer at meetings. R. Tufts-Keegan said she would leave it up to the audience to decide if they want prayer or not. T. Cremmen suggests it should be discussed at the beginning of every meeting before automatically doing it.

**New Business**

**17. Water Testing: John Mullen & Randy Barnes**

**Minutes:**

John Mullen reported that currently there is a DES advisory for a cyanobacteria bloom for Sunrise Lake. Public is advised not to swim or wade in lake. They will re-test in one week. VLAP Water Testing: Suggesting to test all Town Beaches. Conservation Commission budgeted for extra testing this year. Associations have pledged donations. Want to do two tests - one now and one in late September. In the future, would like to move to three tests. E Coli would be one of the important tests to perform. R. Tufts-Keegan stated she wasn't comfortable with the taxpayers paying to test private association beaches. There was discussion regarding whether the Town is responsible for overall water quality regardless of who owns the beaches. There was no money

budgeted in Health Officer for VLAP testing, however there is \$660 budgeted in Conservation under Lake Assessment which Kate Buzzard clarified is to cover water testing. T. Donovan-Laviolette made a motion to spend \$40 test the water at the Town Beach for E Coli, T. Cremmen seconded, motion carried.

## Public Comment

Dan Saliga: Looking for follow-up on when the Road Agent Appointment is due to be renewed? R. Tufts-Keegan said it will be due at the end of the month.

Dan Saliga: Will Town be allowing ATV's on Jesse Mountain Trail?

Jim Keegan: Will BOS discuss this along with ATV's on Class VI Roads?

R. Tufts-Keegan said we will need to research this and may not have the information for next week.

S. Ferguson questioned if the Town owned the trail?

Bonnie Gagnon: Is there any further information regarding the Police Chief's EMS License. R. Tufts-Keegan responded no.

Bonnie Gagnon: Announced the Rec will be hosting Candy Bar Bingo on June 23rd.

David Deufresne: Why did the Chief say they are not going to get body cams at this time? If we can get a grant, why not? S. Ferguson said he is not aware of a reason, and it will eventually be a State law requiring cameras, which is why the State is offering a 2nd grant, which has a June 30th deadline.

David Deufresne: We just moved to a five-person Board, and now we are hearing we don't need to meet so often. R. Tufts-Keegan stated there is no change in meeting frequency.

Mike Laviolette: Asked if we own our firewall. C. Long answered yes, we own it.

## Adjournment

### 18. Motion to Adjourn

#### Minutes:

S. Ferguson made a motion to adjourn at 7:53 PM, M. Green seconded, motion carried.

OFFICE OF THE  
STRAFFORD COUNTY ATTORNEY

COUNTY ATTORNEY  
Thomas P. Velardi

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DIRECTOR  
VICTIM ASSISTANCE  
Nancy Harris



June 5, 2023

County Attorney Thomas P. Velardi  
Strafford County Attorney's Office  
259 County Farm Road  
Dover, NH 03820

**Re: Middletown Selectmen Wiretapping Review**

Dear County Attorney Velardi:

I have reviewed the allegations reported by Selectman Christine Maynard concerning whether prior Middletown selectmen were illegally audio recording in violation of the State's wiretapping laws, specifically Michael Boisvert, Lee Britton, and Joseph Varga. This matter was referred to the Strafford County Sheriff's Office, who conducted an investigation into the matter. After reviewing the results of that investigation, it does not appear that there are any violations of New Hampshire law that could be proven beyond a reasonable doubt at trial.

Based on the allegation that cameras were potentially installed surreptitiously in the Middletown Town Hall, the Sheriff's Office conducted a number of interviews which determined that the cameras were installed by Former Selectman Lee Britton. There was not evidence gathered that indicated that Selectman Boisvert or Selectman Varga were involved in the installation or monitoring of the cameras, and as such, the State is unable to prove any violations of RSA 570-A:2 against them.

As for Selectman Britton, the evidence gathered is insufficient to prove any violation of RSA 570-A:2. RSA 570-A:2 provides that "A person is guilty of a class B felony if, . . . without the consent of all parties to the communication, the person: (a) Wilfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any telecommunication or oral communication[.]"<sup>1</sup> RSA 570-A:2 I(a). The "willfully" requirement has been interpreted by the New Hampshire Supreme Court to mean more than just purposeful conduct, but conduct that acts with an intentional or reckless disregard for the lawfulness of the conduct. See State v. Muller, 166 N.H. 65, 68-69 (2014).

Here, the evidence indicates that the cameras were removed prior to the start of the investigation, and as such, their footage has not been preserved for review. Selectman Britton was interviewed and reported that the camera was set up only to monitor movement after-hours following reported thefts, information which was corroborated by a contemporaneous witness statement.

<sup>1</sup> A misdemeanor violation occurs when ". . . without consent of all parties to the communication, the person knowingly intercepts a telecommunication or oral communication when the person is a party to the communication or with the prior consent of one of the parties to the communication, but without the approval required by RSA 570-A:2, II(d)" (RSA 570-A:2 I-a), but that provision is not implicated by the facts here.

Multiple witnesses reported that there was information shared that was later known that would not have been able to be known without the cameras having picked up the audio. While this information would be circumstantial evidence that the cameras were indeed recording audio, this alone does not rise to the level of proof beyond a reasonable doubt such that the State believes it could prove a charge of a willful violation of RSA 570-A:2 at trial. The State's conclusion in this matter is merely a reflection of that finding – that the evidence is insufficient to bring criminal charges.

The State also notes that there are apparently now postings in the building by the cameras which note the potential for video and audio recording. This should hopefully avoid any issues in the future.

As such, I am closing these files without seeking to file any charges. Should new information arise, I am happy to review it further. Please contact me with any questions.

Sincerely,



Patrick Conroy  
Assistant County Attorney